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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BOYD, JENNIFER A	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/712,462	SOUTH, ROBERT J.	
	Examiner	Art Unit	
	Jennifer A. Boyd	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11,.453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/24/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 8 contains the trademark/trade name Parachem AC 786. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify a source of goods, and not the goods themselves. Thus, a trademark or a trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe an acrylic adhesive and, accordingly, the identification/description is indefinite. For the purpose of examination at this time, the Examiner will interpret Parachem AC 786 as an acrylic adhesive.

4. Claim 11 requires that the elevated temperature is greater than the maximum temperature to which a batt is normally exposed during shipping from a manufacturing location to a retail sales location. It is unclear what temperature level would be present during shipping so Examiner has no basis for comparison to Applicant's "elevated temperature".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 – 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lauchenauer (US 3,922,418).

As to claims 1 – 2, Lauchenauer teaches a heat-sealable textile sheet material suitable for use as an interlining for garments is prepared by applying to textile sheet material, or "non-woven fibrous web", a coating of thermoplastic resin particles as required by claim 3, or "heat sealable and releasable adhesive" (Abstract). The textile sheet material can be a non-woven fabric (column 3, lines 8 – 10). It should be noted that during the heat-sealing operation, not all of the thermoplastic resin is crosslinked. The resin coating after crosslinking, therefore, has substantial thermoplasticity enabling the heat-sealable textile sheet material to be resealed to the textile fabric which is intended to reinforce should the layers become separated in use (column 7, lines 5 – 20). It should be noted that the Examiner has given no patentable weight to "a fusible quilt batt", "attach a quilt cover to the batt" an "attached quilt cover to removed from the batt". Furthermore, it has been held that a recitation with respect to the manner in which a claimed article is intended to be employed does not differentiate the claimed article from a prior art

article satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). There is nothing on record to evidence that the prior art product could not function in the desired capacity. The burden is shifted upon the Applicant to evidence the contrary.

As to claim 3, Lauchenauer teaches that the adhesive coating can be roller coated or can be in the form of a powder applied through a screen (column 6, lines 34 – 45). It is the position of the Examiner that at least a small portion of the adhesive coating will diffuse into the web upon application and serve to adhere at least a portion of the fibers together.

As to claim 4, due to the level of cross-linking taught by Lauchenauer, the "nonwoven fibrous web" can be heat-sealed and heat-released multiple times which implies a substantial amount of adhesive remains for the reapplications as required by claim 4.

As to claims 5 and 8, Lauchenauer teaches that the thermoplastic resin particles, or "heat sealable and releasable adhesive", can be vinyl acetate (column 4, lines 14 - 15) or acrylic (column 4, line 16).

As to claims 6 and 7, Lauchenauer teaches that the textile sheet material, or "non-woven fibrous web", can comprise cotton and polyester, including blends of such fibers (column 2, lines 64 – 68, column 3, lines 1 – 5).

As to claims 9 - 16, Lauchenauer teaches a heat-sealable textile sheet material suitable for use as an interlining for garments is prepared by applying to textile sheet material, or "non-woven fibrous web", a coating of thermoplastic resin particles as required by claim 3, or "heat sealable and releasable adhesive" (Abstract). The textile sheet material can be a non-woven fabric (column 3, lines 8 – 10). It should be noted that during the heat-sealing operation, not all of the thermoplastic resin is crosslinked. The resin coating after crosslinking, therefore, has

substantial thermoplasticity enabling the heat-sealable textile sheet material to be resealed to the textile fabric which is intended to reinforce should the layers become separated in use (column 7, lines 5 – 20). See Example 1. Lauchenauer teaches that the paste is applied and dried at 100 degrees C. The resulting interlining was heat-sealed at a temperature of 180 degrees C for 40 seconds (column 7, lines 25 – 50). Lauchenauer does not specify any special means of storage for the interlining so it is the position of the Examiner that the interlining can be folded onto itself and unfolded without damaging the interlining at a "first level of tackiness". Furthermore, it is assumed that Applicant's "second level of tackiness" would be present when the non-woven is at an elevated temperature. Lauchenauer teaches applying the fabric at a temperature of 180 degrees C, equated to Applicant's "elevated temperature".

As to claim 17, Lauchenauer teaches that the thermoplastic resin particles, or "heat sealable and releasable adhesive", can be acrylic (column 4, line 16).

As to claim 18, Lauchenauer teaches that the adhesive coating can be roller coated or can be in the form of a powder applied through a screen (column 6, lines 34 – 45). It is the position of the Examiner that at least a small portion of the adhesive coating will diffuse into the web upon application and serve to adhere at least a portion of the fibers together.

7. Claims 1 –5 and 8 - 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Chumbley et al. (US 5,716,687).

Chumbley is directed to a fusible sheet and methods of fabrication thereof (Title) used in connection with the assembly of draperies, clothing and laminations for many industries utilizing textiles and/or fabrics both natural and synthetic (column 2, lines 40 – 45). Chumbley further

notes that the heat-fusible sheets are used for laminations and applying appliqués on to fabrics and textiles in the home sew, arts and crafts and hobby industries (column 2, lines 45 – 50).

As to claims 1 - 4, Chumbley teaches a heat-fusible substrate comprising adhesive which is steam or heat-sensitive adhesive which is reactivated by the presence of sufficient steam and/or continuous heat (column 2, lines 60 – 68 and column 3, lines 1 – 10). Chumbley teaches that the heat-fusible substrate may be in the form of a wet or dry laid web, spun-bonded fibers, random interlocking fiber, woven or non-woven fibers held together with adhesives (column 4, lines 5 – 10). The substrate further comprises a pressure-sensitive adhesive applied on the outer layer of the substrate (column 3), which allows the substrate to applied and repositioned at room temperature. Furthermore, upon application of heat through use of a steam iron, the substrate can be fused to another substrate; the Examiner equates this to Applicant's "elevated temperature". It is the position of the Examiner that at least a small portion of the pressure-sensitive adhesive coating will diffuse into the web upon application and serve to adhere at least a portion of the fibers together. It should be noted that the Examiner has given no patentable weight to "a fusible quilt batt", "attach a quilt cover to the batt" an "attached quilt cover to removed from the batt". Furthermore, it has been held that a recitation with respect to the manner in which a claimed article is intended to be employed does not differentiate the claimed article from a prior art article satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). There is nothing on record to evidence that the prior art product could not function in the desired capacity. The burden is shifted upon the Applicant to evidence the contrary.

As to claims 5 and 8, Chumbley teaches that the pressure-sensitive adhesive can be formed from a hot melt thermoplastic adhesive or acrylic-type adhesive. The acrylic-type is preferred (column 5, lines 40 – 45).

As to claims 9 - 16, Chumbley teaches a heat-fusible substrate comprising adhesive which is steam or heat-sensitive adhesive which is reactivated by the presence of sufficient steam and/or continuous heat (column 2, lines 60 – 68 and column 3, lines 1 – 10). Chumbley teaches that the heat-fusible substrate may be in the form of a wet or dry laid web, spun-bonded fibers, random interlocking fiber, woven or non-woven fibers held together with adhesives (column 4, lines 5 – 10). The substrate further comprises a pressure-sensitive adhesive applied on the outer layer of the substrate (column 3), which allows the substrate to applied and repositioned at room temperature. Furthermore, upon application of heat through use of a steam iron, the substrate can be fused to another substrate; the Examiner equates this to Applicant's "elevated temperature". It is the position of the Examiner that at least a small portion of the pressure-sensitive adhesive coating will diffuse into the web upon application and serve to adhere at least a portion of the fibers together. Chumbley teaches that the substrate is supplied with a release liner to protect the adhesive surface and then wound into a roll of completed product (column 5, lines 10 – 40). Therefore, it is the position of the Examiner that the batt can be folded onto itself and not be damaged. Furthermore, the iron would provide an elevated heat (column 1, lines 25 – 30), which would be higher than the maximum temperature to which the substrate would be normally exposed to during shipping from a manufacturing location to a retail sales location as required by Applicant.

As to claim 17, Chumbley teaches that the pressure-sensitive adhesive can be formed from a hot melt thermoplastic adhesive or acrylic-type adhesive. The acrylic-type is preferred (column 5, lines 40 – 45).

As to claim 18, it is the position of the Examiner that at least a small portion of the pressure-sensitive adhesive coating will diffuse into the web upon application and serve to adhere at least a portion of the fibers together.

8. Claims 1 – 4, 6 – 7, 9 – 16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Repp et al. (US 6,261,397).

Repp is directed to a quilting method and system (Title).

As to claims 1 - 4, Repp teaches a quilt batting having an outer coating of inactive adhesive (column 2, lines 50 – 65). It is the position of the Examiner that at least a small portion of the pressure-sensitive adhesive coating will diffuse into the web upon application and serve to adhere at least a portion of the fibers together. Repp teaches that the coating is activated by heat (column 3, lines 4 – 20), equated to Applicant's "elevated temperature". Repp teaches that the batting can be temporarily fixed (column 3, lines 20 – 25).

As to claims 6 – 7, Repp teaches that the batting may comprise 100% cotton, cotton and polyester blends and 100% polyester. Repp comments that presently used batting has included 100% cotton, 100% polyester and 80% cotton/20% polyester blends (column 3, lines 63 – 67 and column 4, lines 1 – 10).

As to claims 9 – 16 and 18, Repp teaches a quilt batting having an outer coating of

Inactive adhesive (column 2, lines 50 – 65). It is the position of the Examiner that at least a small portion of the pressure-sensitive adhesive coating will diffuse into the web upon application and serve to adhere at least a portion of the fibers together. Repp teaches that the coating is activated by heat (column 3, lines 4 – 20), equated to Applicant's "elevated temperature". Repp teaches that the batting can be temporarily fixed (column 3, lines 20 – 25). It should be noted that Repp teaches the use of an "inactive adhesive" which is only activated upon a certain level of heat applied by for instance by a hot iron (claim 3). The iron would provide an elevated heat which would be higher than the maximum temperature to which the substrate would be normally exposed to during shipping from a manufacturing location to a retail sales location as required by Applicant.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hobbs Heirloom Fusible batting (first brought to market in early 2002) comprises 80% cotton and 20% polyester and is resin bonded. On creativegrids.com, it is indicated that the fusible component is a chemical added to the resin which binds the nonwoven material together. The product can be temporarily ironed on and can be peeled off and reattached if desired.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Boyd
July 13, 2005

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